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**TELECOPY****PLEASE DELIVER AS SOON AS POSSIBLE****Date:**

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**Recipient:**

Examiner Michelle Lopez

**Company:**U.S. PATENT & TRADEMARK  
OFFICE**Fax Number:**

(703) 872-9306

**Voice Number:****Sender:**

Ernest B. Lipscomb, III

**Message:****Application No. 10/661,235****OFFICIAL PAPER - STATUS LETTER****Number of Pages: (including cover page)****22****IF NOT RECEIVED PROPERLY, PLEASE NOTIFY US IMMEDIATELY AT.**

<b>USER CODE:</b> LIPSE	<b>REQUESTED BY:</b> Jan Sherrill - 1163
<b>CLIENT/MATTER:</b> 031456/267963	<b>OPERATOR:</b>

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PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Confirmation No.: 6853

Appl. No.: 10/661,235  
Applicant(s): White, Jr. et al.  
Filed: September 12, 2003  
Art Unit: 3721  
Examiner: Michelle Lopez  
Title: SYSTEM FOR CONVEYING PACKAGING CUSHIONS

Docket No.: 031456/267963  
Customer No.: 00826

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

## STATUS LETTER

Sir:

In the above-identified application, an Office Action was received by the undersigned attorney dated August 13, 2004. The Office Action indicated that certain of the claims would be allowable and others were objected to, but would be allowed if rewritten in independent form. Applicants duly responded to said Office Action in an Amendment mailed to the Patent Office on September 16, 2004 and acknowledged in the return postcard as being received on September 20, 2004.

A check of the PAIR system indicates that a non-final rejection was mailed on October 13, 2004, but that no Office Action was mailed on August 13, 2004 or acknowledges the receipt of the Amendment dated September 16, 2004.

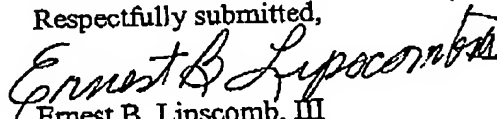
There appears to be some confusion as to the status of this application. Accordingly, enclosed please find a copy of the Office Action dated August 13, 2004; the Amendment dated September 16, 2004; and a copy of the PAIR printout dated February 24, 2005 failing to indicate the Office Action of August and noting an Office Action of October 13, 2004 which applicants have not received. Attention to this matter and clarification is respectfully requested. The

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Appl. No.: 10/661,235  
Status Letter dated February 25, 2005

Examiner is kindly requested to advise the undersigned attorney either in writing or by phone of the correct status.

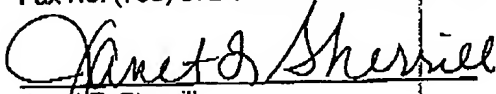
Respectfully submitted,

  
Ernest B. Lipscomb, III  
Registration No. 24,733

Customer No. 00826  
**ALSTON & BIRD LLP**  
Bank of America Plaza  
101 South Tryon Street, Suite 4000  
Charlotte, NC 28280-4000  
Tel Charlotte Office (704) 444-1000  
Fax Charlotte Office (704) 444-1111

**CERTIFICATION OF FACSIMILE TRANSMISSION**

I hereby certify that this paper is being facsimile transmitted to the U. S. Patent and Trademark Office at Fax No. (703) 872-9306 on the date shown below.

  
Janet F. Sherrill

February 25, 2005  
Date

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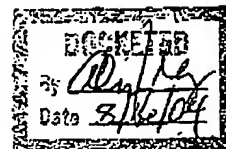
## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,235	09/12/2003	Robert A. White JR.	031456/267163	683
826 7590 08/13/2004				
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000				
			EXAMINER	
			LOPEZ, MICHELLE	
			ART UNIT	PAPER NUMBER
			3721	
DATE MAILED: 08/13/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

(571) 272-4464



## Office Action Summary

Application No.

10/661,235

Applicant(s)

WHITE ET AL.

Examiner

Michelle Lopez

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-12 is/are rejected.
- 7) ☒ Claim(s) 9 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
- Paper No(s)/Mail Date 09/12/03.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Application/Control Number: 10/661,235  
Art Unit: 3721

### DETAILED ACTION

#### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 4-6 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 4 recites the limitations "said cutting signal" and "said cutter" in step (e). There is insufficient antecedent basis for this limitation in the claim.

Also, claim 11 recites the limitation "said conveyor means". Since claims 1 and 2 disclose a conveying means via a blower, not a "conveyor means", there is insufficient antecedent basis for this limitation in the claim.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 7-8, and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landrum (US 6,428,246) in view of Murakami (US 5,581,983). Landrum'246 discloses a conveying means via a blower "12" for conveying a string of cushions "20" from one point to another point (see Figs. 1 and 2), means for diverting the

Application/Control Number: 10/661,235  
Art Unit: 3721

string of cushions to one or more alternate end points via ports "52", a machine conveyor via "30", a storage hopper "40", a sensor "62" to generate a signal permitting the filling of the hopper "40", one or more intermediate outlets via "50,51,53,48", and a booster blower "42".

Even when Landrum'246 discloses a switch "62" adapted to generate a signal to control the feeding and diversion of the string of cushions "20", Landrum 246 does not disclose a separator via a knife assembly and a controller adapted to sever the string of cushions in response to a signal. However, Murakami'983 teaches a separator "34" with cutters "36", i.e. knife, and a controller via "6" for the purpose of severing a string of cushions in response to a controlled signal for a predetermined longitudinal length of the cushions "12". In view of Murakami'983, it would have been obvious to one having ordinary skills in the art to have provided Landrum's invention with a separator with cutters or knife and a controller adapted to sever the string of cushions in response to a controlled signal for a predetermined longitudinal length of the cushions.

*Allowable Subject Matter*

3. Claims 4-6 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.
4. Claims 9 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Application/Control Number: 10/661,235  
Art Unit: 3721

*Conclusion*

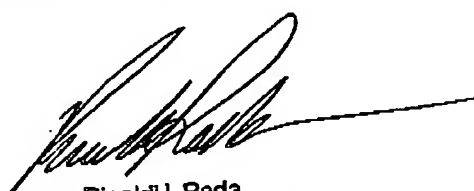
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ennis'438, Hoover'501, Weder'936, and Sperry'406 are cited to show related inventions.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 703-305-<sup>(571)</sup>8205. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm <sup>222-4464</sup>

7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ML

  
Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 8700



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009

FEB 25 2005

Substitute for form 1449/PTO (Revised 04/2003)  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b> (Use as many sheets as necessary)		Complete if Known				
		Application Number	To Be Assigned			
		Filing Date	Concurrently Herewith			
		First Named Inventor	White, Jr. et al.			
		Group Art Unit				
Examiner Name		Attorney Docket Number	031456/267963			
Sheet	1	of	1			
<b>U.S. PATENT DOCUMENTS</b>						
Examiner Initials*	Cite No.	Document Number Number - Kind Code (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages of Relevant Figures Appear	
ML	1	US-3,588,178	06/28/1971	Fulchiron		
	2	US-3,762,772	10/02/1973	Fuss		
	3	US-3,817,803	06/18/1974	Horsky		
	4	US-4,167,235	09/11/1979	Green		
	5	US-4,284,372	08/18/1981	Smith		
	6	US-4,799,830	01/24/1989	Fuss		
	7	US-5,340,632	08/23/1994	Chappuis		
	8	US-5,868,657	02/09/1999	Simmons		
	9	US-5,891,009	04/06/1999	Ratzel et al.		
	10	US-5,942,076	08/24/1999	Salerno et al.		
	11	US-6,428,246	08/06/2002	Landrum		
	12	US-6,453,644	09/24/2002	Baker		
	13	US-6,519,916	02/18/2003	Brown		
	14	US-6,536,183	03/25/2003	Brown		
ML	15	US-2003/0079439 A1	05/01/2003	Brown		
<b>FOREIGN PATENT DOCUMENTS</b>						
Examiner Initials	Cite No.	Foreign Patent Document Country Code - Number Kind Code (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	English Language Translation Attached
Examiner Signature	Michelle [Signature]			Date Considered	8-02-04	

\*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

CLT01/4609628v1

# Notice of References Cited

Application/Control No.

10/561,235

Applicant(s)/Patent Under  
Reexamination  
WHITE ET AL.

Examiner

Michelle Lopez

Art Unit

3721

Page 1 of 1

## U.S. PATENT DOCUMENTS

	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
				53/79
A	US-1,597,438	08-1926	ENNIS FORD B	53/512
B	US-5,581,983	12-1996	Murakami, Sadaji	53/472
C	US-5,552,003	09-1996	Hoover et al.	53/472
D	US-8,041,936	03-2000	Weder, Donald E.	53/79
E	US-6,651,406	11-2003	Sperry et al.	
F	US-			
G	US-			
H	US-			
I	US-			
J	US-			
K	US-			
L	US-			
M	US-			

## FOREIGN PATENT DOCUMENTS

	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
N					
O					
P					
Q					
R					
S					
T					

## NON-PATENT DOCUMENTS

	Include as applicable: Author, Title Data, Publisher, Edition or Volume, Pertinent Pages)
U	
V	
W	
X	

copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(e).)  
 dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Date Mailed: September 16, 2004  
Atty. Dkt. No. 031456/267963

Application No. 10/661,235; Filing Date September 12, 2003  
Inventor(s): White, Jr. et al.; Title of Invention: SYSTEM FOR  
CONVEYING PACKAGING CUSHIONS

Documents Enclosed: **Amendment**

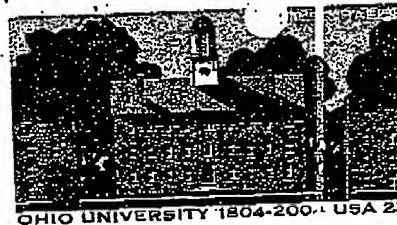
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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Customer No.: 00826

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

AMENDMENT  
37 C.F.R. § 1.121

Sir:

In response to the Office Action dated August 13, 2004, please amend the above-identified application as follows:

Amendments to the Specification begin on page 2 of this paper.

Amendments to the Claims are reflected in the listing of claims beginning on page 3 of this paper.

Remarks/Arguments begin on page 6 of this paper.